IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13305 of 2004

Between:

M. Sujatha, W/o. China Anji Reddy,
Daramvaripalem Village, Tallur Mandal, Prakasam District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Kandukur, Prakasam District.
2 The Mandal Revenue Officer, Tallur Mandal, Prakasam District.
3 Daram Ramanjaneya Reddy, S/o. Nagireddy, Daramvaraipalem Village,
Tallur Mandal, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue preferably a writ in the nature of Mandamus or any appropriate writ declaring the proceedings No. D.Dis.F/1678/2004, dated 19-07-2004 passed by respondent No. 1 as illegal, arbitrary and unconstitutional and in violation of principles of natural justice.

Counsel for the Petitioner: Mr. Koti Reddy Idamakanti

Counsel for Respondents 1 and 2: GP for Civil Supplies.

Counsel for Respondent No.3: Mr. T. Rajendra Prasad.

This Court made the following at the admission stage:

O R D E R:

This writ petition is filed seeking a declaration that the proceedings of the first respondent, dated 19-07-2004, whereunder the third respondent herein has been appointed as a temporary dealer of the Fair Price Shop of Daramvaripalem village, Tallur Mandal, are arbitrary and illegal.

The case of the petitioner is that she has been continuing as the temporary Dealer of the Fair Price Shop in question for the past seven years. While so, on the basis of the report of the Mandal Revenue Officer, Tallur, the impugned order, dated 19-07-2004, has been passed alleging that the petitioner is not residing in the village and that she has been residing at Guntur and that one M. Venkateswara Reddy who is running the shop, has been indulging in several irregularities causing much inconvenience to the card holders, and therefore, the third respondent has been appointed as a temporary dealer. The petitioner denies all the allegations made in

the impugned order and states that she is very much residing in the village and that there has never been any complaint whatsoever from any one of the card holders.

A counter-affidavit has been filed by the Revenue Divisional Officer, Kandukur, on behalf of the respondents 1 and 2 stating that the Mandal Revenue Officer, Tallur, submitted a report stating that the petitioner is not residing in the village and, therefore, the impugned order has been passed appointing the third respondent as a temporary dealer. The third respondent has also filed a separate counter-affidavit stating that the petitioner is not residing in the village.

However, the fact that the petitioner has not been afforded an opportunity to rebut the allegation that she is not residing in the said village is not disputed by the respondents.

The learned Counsel for the petitioner vehemently contends that the name of the petitioner has been included even in the voters list of Daramvaripalem village and therefore the allegation is absolutely false and without any basis. Such a disputed question of fact cannot be investigated into by this Court, but it is a matter for enquiry by the first respondent and to record a finding after considering the explanation of the petitioner.

Accordingly, without expressing any opinion as to the correctness of the allegations made in the impugned order, the writ petition is disposed of with a direction to the Revenue Divisional Officer to enquire into the allegations against the petitioner and to pass appropriate orders after affording an opportunity to the petitioner to rebut the allegations made. Such an exercise shall be completed as expeditiously as possible, preferably within a period of four weeks from the date of receipt of a copy of this order. Till such time, the respondents are directed to allow the petitioner to continue as the

Fair Price Shop Dealer. No order as to costs.

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G.ROHINI, J

Date:09-11-2004

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To

1 The Revenue Divisional Officer, Kandukur, Prakasam District.

2 The Mandal Revenue Officer, Tallur Mandal, Prakasam District.

3 Two CCs to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad.(O.U.T.)

4 Two CD copies.